

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

DEBORAH J. HOWELL,

Plaintiff,

Case No:

v.

MILWAUKEE RADIOLOGISTS, LTD, S.C.

Defendant.

COMPLAINT

NOW COMES the above-named Plaintiff, Deborah Howell (“Howell” or “Plaintiff”), by her attorneys, CADE LAW GROUP LLC, and as and for claims against the above-named defendant, alleges and shows to the Court as follows:

STATEMENT OF JURISDICTION

1. This is an action for damages against the defendant, Milwaukee Radiologists, LTD, S.C. (“Milwaukee Radiologists”) for its discriminatory treatment and wrongful termination of the Plaintiff’s employment, in violation of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. § 621 et seq.) and the Wisconsin Fair Employment Act (Wis. Stat. § 111.321 et seq.).

2. This Court has jurisdiction over the subject matter of the Plaintiff’s claims under the Age Discrimination in Employment Act (“ADEA”) pursuant to 28 U.S.C. § 1331 in that these claims arise under federal law.

3. This Court has supplemental jurisdiction over the Plaintiff’s related state law claims pursuant to 28 U.S.C. § 1367(a) because the Plaintiff’s claims under the Wisconsin Fair Employment Act (“WFEA”) are so related to the Plaintiff’s federal claims

that they form part of the same case or controversy. The Plaintiff's state law claims share all common operative facts with her federal law claims, and the parties are identical. Resolving all state and federal claims in a single action serves the interests of judicial economy, convenience, and fairness to Milwaukee Radiologists.

VENUE

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because the unlawful employment discrimination giving rise to the claims alleged herein occurred in the Milwaukee judicial district and division. More specifically, Ms. Howell was employed by Milwaukee Radiologists at 6150 W. Layton Avenue, Greenfield, WI 53220 when she was terminated from her job.

5. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(b) because Milwaukee Radiologists does substantial business in Milwaukee, Wisconsin and the basis for the claims against Milwaukee Radiologists is in the Eastern District of Wisconsin.

PARTIES

6. The Plaintiff, Ms. Howell, is a Caucasian female who is over the age of forty (40), and is a citizen of the United States and the State of Wisconsin, and who resides at 2410 State Road 175, Richfield, WI 53076. At all times relevant to this suit, until her termination on September 24, 2021, she was employed by Milwaukee Radiologists as a Practice Manager.

7. That upon information and belief, Defendant Milwaukee Radiologists is a corporation that is licensed to do business in the State of Wisconsin. Milwaukee Radiologists' purported registered agent in Wisconsin for service of process is Russell M. Lein, who has a business address of 6150 W. Layton Avenue, Milwaukee, WI 53220.

8. Milwaukee Radiologists is an employer within the meaning of the Age Discrimination in Employment Act (29 U.S.C. § 621 et seq) and corresponding Wisconsin law (Wis. Stat. § 111.321 et seq.).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

8. Ms. Howell has exhausted all her administrative remedies. She filed timely administrative charges of discrimination against Milwaukee Radiologists with the U.S. Equal Employment Opportunity Commission (“EEOC”) and the State of Wisconsin Equal Rights Division (“ERD”). A true and correct copy of Ms. Howell’s EEOC Intake Questionnaire is attached hereto and incorporated herein as **Exhibit 1**.

9. On March 21, 2022, the EEOC issued a Notice of Right to Sue to Ms. Howell, and this action was filed within 90 days after Ms. Howell received the Notice of the Right to Sue. A true and correct copy of the Notice of Right to Sue is attached hereto and incorporated herein as **Exhibit 2**.

FACTUAL BACKGROUND

10. At the time of her termination, Ms. Howell was a Practice Manager at Milwaukee Radiologists, which is located at 6150 W. Layton Avenue, Greenfield, WI 53220.

11. In the Spring of 2021, while employed at Milwaukee Radiologists, Ms. Howell informed her boss, Mr. Russ Lein, she planned to retire on or about December 31, 2021. Around that same time, Ms. Howell also met with Dr. Uma Suriyanarayanan who asked Ms. Howell to help find and train her replacement. Ms. Howell also agreed to consult for Milwaukee Radiologists should the need arise.

12. Ms. Howell created a training manual for her position and an

advertisement for her replacement. On June 29, 2021, the advertisement was posted on the website Indeed. The post received 31 responses/resumes. Ms. Howell was instructed to review the resumes to narrow the field of candidates, which she did.

13. On July 9, 2021, Ms. Howell sent the best five applicants to Milwaukee Radiologists' board. Ms. Howell proceeded to set up face-to-face interviews as well as Zoom video interviews with the top three candidates. The in-person interviews took place on July 24, 2021 with Dr. Suriyanarayanan and the video interviews took place in early August with Dr. Jakubowski, a member of the board. After the interviews were completed, Ms. Howell was asked for her input on the candidates.

14. Dr. Suriyanarayanan and the Milwaukee Radiologists board extended an offer to Ms. Howell's replacement, Colleen Miller, with an expected start date of September 1, 2021. Ms. Howell was not made aware of the offer or that it had been accepted.

15. On September 1, 2021, Ms. Miller started working at Milwaukee Radiologists. Ms. Howell trained Ms. Miller during the day and worked several hours in the evening at home to catch up on work she did not finish during the day because of the training.

16. On September 24, 2021, Dr. Suriyanarayanan informed Ms. Howell she had "bad news" and that September 24th would be her last day employed at Milwaukee Radiologists.

17. That upon information and belief, Milwaukee Radiologists termination of Ms. Howell was motivated by her age.

18. That shortly before Ms. Howell's termination, Milwaukee Radiologists hired

Ms. Miller to replace Ms. Howell.

19. That as a result of Milwaukee Radiologists' discriminatory termination of Ms. Howell because of her age, Ms. Howell lost her source of income and experienced emotional distress.

COUNT ONE

(Age Discrimination in Violation of the Age
Discrimination in Employment Act ("ADEA") 29 U.S.C. § 621 *et seq*)

20. Plaintiff, Ms. Howell, repeats and re-alleges the allegations set forth in Paragraphs 1 through 19 as though fully set forth herein.

21. That Milwaukee Radiologists' conduct as herein alleged violated Title VII of the Age Discrimination in Employment Act of 1967, as amended, (29 U.S.C. § 621 *et seq.*), which makes unlawful discrimination against employees on the basis of their age. That the ADEA prohibits an employer from discriminating against an employee who is at least 40 years of age. 29 U.S.C. § 631(a).

22. That Milwaukee Radiologists discriminated against Ms. Howell in violation of Title VII of the ADEA when it disciplined and subsequently terminated Ms. Howell because of her age.

23. That the stated reasons for Milwaukee Radiologists' conduct were not true reasons, but instead were pretext to hide Milwaukee Radiologists' discriminatory actions.

24. That as a proximate result of Milwaukee Radiologists' discriminatory actions, Ms. Howell has suffered losses in compensation, earning capacity, humiliation, mental anguish and emotional distress. As a result of those actions and consequent harms, Ms. Howell has suffered such damages in an amount to be proved at trial.

COUNT TWO

(Age Discrimination in Violation of the Wisconsin
Fair Employment Act ("WFEA") Wis. Stat. § 111.321 *et seq*)

25. Plaintiff, Ms. Howell, repeats and re-alleges the allegations set forth in Paragraphs 1 through 24 as though fully set forth herein.

26. That Milwaukee Radiologists' conduct as herein alleged violated the Wisconsin Fair Employment Act, which makes it an unlawful employment practice for an employer to terminate or discriminate against an employee on the basis of age. Wis. Stat. §§ 111.321 and 111.322(1). That the WFEA prohibits an employer from discriminating against an employee who is age 40 or over. Wis. Stat. § 111.33 (1).

27. That Milwaukee Radiologists discriminated against Ms. Howell in violation of the WFEA when it terminated her because of her age.

28. That the stated reasons for Milwaukee Radiologists' conduct were not true reasons, but instead were pretext to hide Milwaukee Radiologists' discriminatory actions.

29. That as a proximate result of Milwaukee Radiologists' discriminatory actions, Ms. Howell has suffered losses in compensation, earning capacity, humiliation, mental anguish and emotional distress. As a result of those actions and consequent harms, Ms. Howell has suffered such damages in an amount to be proved at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff request that this Court:

1. Enter a declaratory judgment that the practice complained of in this complaint are unlawful and violate the Age Discrimination in Employment Act of 1967, as amended and the Wisconsin Fair Employment Act;

2. Grant all injunctive relief necessary to bring Defendant into compliance

with the aforementioned laws;

3. Order Defendant to pay back wages and front pay;
4. Order Defendant to pay liquidated damages and punitive damages;
5. Order Defendant to pay the wages, salary, employment benefits, and other compensation denied or lost to Plaintiff to date by reason of Defendant' unlawful actions, in amounts to be proven at trial;
6. Order Defendant to reinstate Plaintiff to a comparable position with Defendant;
7. Order Defendant to pay compensatory damages for Plaintiff's emotional pain and suffering, in an amount to be proven at trial;
8. Order Defendant to pay costs and reasonable attorneys' fees incurred with this lawsuit with interest thereon; and
9. Grant any further relief that this Court deems just and proper.

JURY DEMANDED

Plaintiff request a trial by jury of twelve persons on all matters as to which she is entitled by law.

Dated this 18th day of April, 2022.

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A JURY TRIAL IS HEREBY DEMANDED